IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 3287 of 2004

For Approval and Signature:

HONOURABLE MR. JUSTICE B.J.SHETHNA
HONOURABLE MR.JUSTICE H.B.ANTANI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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DAHIBEN MITHABHAI MAKWANA & 1 - Petitioner(s)
Versus
UNION OF INDIA & 1 - Respondent(s)

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Appearance :
NOTICE SERVED for Petitioner(s) : 1 - 2.
RULE SERVED for Respondent(s) : 1,
MS MEGHA JANI for Respondent(s) : 2 (absent)

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CORAM : HONOURABLE MR. JUSTICE B.J.SHETHNA

and

HONOURABLE MR.JUSTICE H.B.ANTANI

Date : 27/11/2006

ORAL JUDGMENT

(Per : HONOURABLE MR. JUSTICE B.J.SHETHNA)

The petitioners have challenged in this petition the impugned judgment and order dated 4.12.2003 passed by the Central Administrative Tribunal Ahmedabad Bench, Ahmedabad (for short “Tribunal”) whereby the learned Tribunal dismissed the O.A. No.367 of 2003 filed by the applicants-petitioners of giving appointment on compassionate ground on the death of Mr.M.M.Makwana, after his retirement, as he was medically de-categorized on 26.7.2000.

This petition was initially filed by the petitioners through their advocate Shri P.S.Handa, who has died during the pendency of this petition. Thereupon, on 29.6.2006 Division Bench of this court ordered to issue notice to the petitioners for making alternative arrangement in the matter. Though the notice is duly served upon both the petitioners, they have not remained present either personally or through their advocate. Hence, in their absence, the matter is to be heard and decided.

We have carefully gone through the impugned judgment and order passed by the learned Tribunal dismissing the O.A. No.376 of 2003. Having carefully gone through the same, we are of the considered opinion that in such type of cases of appointment on compassionate ground there is hardly any scope for interference of this court in its limited jurisdiction under Article 227 of the Constitution of

India. Though this petition is labelled as petition under Articles 226 and 227 of the Constitution of India, strictly speaking it is a petition under Article 227 of the Constitution of India, the scope of which is very narrow and limited. In absence of any jurisdictional error committed by the learned Tribunal, we do not see any reason to interfere with the impugned order passed by the learned Tribunal, which is challenged in this petition.

In view of the above discussion, this petition fails and is hereby dismissed. Rule discharged. No order as to costs.

(B.J.SHETHNA, J.)

(H.B.ANTANI, J.)

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